

## OVERPAYMENT PROCEDURES

### ***Department's Rights***

Once a salary overpayment has occurred, it is within the department's rights to:

1. arrange for payroll deductions to reimburse the department for overpayments if the employee is still employed by the state (**refer to General Statutes 143-553, See Section 2**),
2. seek "set-off debt" through the Department of Revenue if the employee is no longer employed by the state (**refer to General Statutes 105A-1 - 105A-16, See Section 2**) or,
3. obtain the assistance of the Attorney General's Office to seek settlement of the overpayment if the overpayment exceeds five hundred dollars and the employee is no longer employed by the state.

### ***Responsible Party For Contacting the Employee When an Overpayment Occurs***

Upon learning of an overpayment, division/institution human resources managers shall serve as the initial contact to the employee (**See Section 2**). Listed below are instructions on how to pursue collection of an overpayment for the three categories of employees.

### ***The 3 Employee Categories of Overpayments***

Employees in an overpayment situation can be categorized in to three groups.

1. current employees
2. current state government employees
3. former state government employees

#### 1. Current Employees: Overpayment Collection Process

The initial contact to a current employee in an overpayment situation should be a written communication by the human resources manager explaining the situation. The employee should be given 15 calendar days to respond to the first letter.

If the employee does not respond to the first letter, a certified letter along with an overpayment worksheet should be sent to the employee informing the employee

of his/her obligation to repay the overpayment per General Statute 143-553. The employee should be given 15 calendar days to respond to the letter.

If the employee does not respond to the certified letter, a final certified letter along with an overpayment worksheet should be sent to the employee informing him/her that failure to respond within 15 calendar days may result in his/her dismissal.

Should the employee not respond to the final letter, contact the Division/ Institution Human Resources Manager concerning disciplinary action for failure to pay money to the Department (**See Section 3 Page 5**). (Plans to proceed with disciplinary action shall be communicated to Employee Relations Section, Division of Human Resources.)

## 2. Current State Government Employees: Overpayment Collection Process

Employees in this category are **former** DHHS employees but now work in another state government agency. They are obligated to repay money owed to the state per General Statute 143-553.

The initial contact to a current state employee in an overpayment situation should be a written communication from the human resources manager explaining the situation. The employee has 15 calendar days to respond to the letter.

If the employee does not respond to the first letter, a certified letter along with an overpayment worksheet should be sent to the employee informing the employee of his/her obligation to repay the overpayment per General Statute 143-553. The employee should be given 15 calendar days to respond to this letter.

If the employee does not respond to the second letter, a final certified letter along with an overpayment worksheet should be sent to the employee informing the employee that failure to respond within 15 calendar days may result in his/her dismissal.

Should the employee not respond to the final letter, a certified letter, along with copies of notification letters, an overpayment worksheet, and a copy of General Statute 143-553 should be forwarded to the current state employee's human resources manager office (Attention: Human Resources Manager), requesting assistance with overpayment collection pursuant to General Statute 143-553.

Please note each letter should be copied to the employee's current human resources manager's office **(See Section 4 Page 4-5)**. **(Note:** If a current or current state government employee agrees to a payment plan, the Assistant Payroll Officer will still submit these employee's accounts to the NC Department of Revenue.)

### 3. Former State Government Employees: Overpayment Collection Process

The initial contact to a former state employee in an overpayment situation should be a written communication from the human resources manager explaining the situation. The former employee has 30 days to respond. An overpayment should be attached for his/her review and information.

If the former employee does not respond, a certified letter along with an overpayment worksheet should be sent to the employee giving him/her 30 days to respond for repayment.

After 60 days with no response from the employee, a final certified letter for repayment should be sent to the former employee. An overpayment worksheet should accompany this letter indicating a deadline of 30 days to respond **(See Section 5 Page 4)**.

After 90 days with no response from the former employee, the overpayment should be pursued through the Set-Off Debt Program with the NC Department of Revenue, the Attorney General's Office and/or a collection agency. The information below provides guidance on the three methods to collect monies owed to the department.

**NOTE:** In cases where a letter has been returned with an incorrect address, you may request a current address through the NC Department of Motor Vehicles, Driver License Section **(See Section 5 Page 5)**.

### **Three Methods to Collect Debt**

#### **3a. Set-Off Debt Program (instructions)**

The Payroll Office is registered with the North Carolina Department of Revenue for the Set-Off Debt Program. An initial list of debtors is submitted by the Assistant Payroll Officer to the NC Department of Revenue. **(Note: An initial list of debtors was submitted by the Assistant Payroll Officer on August 26, 1998.)** After the initial list is submitted, additions, changes and deletions may be submitted thereafter when two events have occurred - an overpayment is 90 days in arrears, and three letters have been written to current/former employees. Please note that the gross amount owed by the employee will be submitted on the list, and the amount owed must be at least \$50.00.

The Department of Revenue will determine annually if the former employee is entitled to a refund of at least \$50.00. **(Note: If the current/former employee files a joint return, the Department of Revenue will determine what portion of that return belongs to the current/former employee and will send ONLY that portion to us.)**

The Department of Revenue will electronically forward the refund to us minus their collection assistance fee. Once the money has been received it will be held in a nonreverting trust fund until notice has been process to the current/former employee. The Assistant Payroll Officer will notify the current/former employee along with the human resources manager's office of the pending refund, its intent to apply the refund to the debt owed and his/her right to contest the validity of the claim within 30 days. Once all hearing and appeals have been conducted, the Assistant Payroll Officer will notify the GA&FM Section, Accounts Receivable Section, payroll offices, division/institutions human resources manager's of the budget and salary line items **(Section 6 Page 13)**. If money has been set-off **in error**, the monies will be refunded to the current/former employee **with interest (if applicable) and the collection assistance fee**. Please note the Department of Revenue has priority in set-off debt claims for monies owed to the Department of Revenue. All other claims monies collected are on a first come basis **(See Section 6)**. For additional information refer to the Statewide Accounts Receivable Program Policy and Procedures Manual.

#### **3b. Attorney General's Office (instructions)**

The Attorney General's Office will assist agencies in the collection of outstanding overpayments of salary. Each human resources manager should submit a list **(Section 7 Page 6)** of outstanding overpayments over **\$500.00** and after the three letters have been written with no response. The list should include the employee's social security number and last known address. The Attorney General's Office will send the former employee a demand letter requesting that he/she respond to the letter by contacting their former human resources manager within 30 days.

All responses from former employees concerning the demand letter should be sent to the Attorney General's Office. After 45 days has expired, the Attorney General's Office will assist each human resources manager in the disposition of each case (**See Section 7 Pages 7-9**). (**Note: If you have received no response from the Attorney General's Office in 45 days, please contact their office for a response.**)

### **3c. Collection Agencies (instructions)**

The NC Department of Justice contracts with two agencies to perform collection services for state agencies with outstanding debts. Each human resources manager should submit a list of all outstanding overpayments of **\$25.00 or more** to these agencies for collection after 90 days past due and three letters have been written to the employee(s). (**Note: For submitted amounts of \$500.00 or more to the Attorney General's Office, notice will be sent to you after 45 days for disposition.**) (**See Section 8.**)

## **4. Write Offs**

After all procedures have been completed above, it can be determined that we have done everything possible to collect these monies and according to the Statewide Accounts Receivable Policy and Procedure Manual (**See Section 2 Page 27**), we can "write off" these salary overpayments (**See Section 2 Page 28-29**).

If a former employee owes **\$24.99 or less**, all three letters have been written to the former employee and the debt is older than 12 months (**See Departments Cash Management Plan**), then a write-off form (**See Section 9 Page 9**) along with all support documents should be submitted to the Accounts Receivable Office for write off. Once the Accounts Receivable Office has received this, they will notify the Assistant Payroll Officer as well as the human resources manager of clearance of these employee debts. This does not mean that the debt is "**forgiven**," it just means that it will no longer be shown as an outstanding debt on the overpayment worksheet.

If the debt is **\$25.00 or more, older than three years** and you have written three letters, utilized the Attorney General's Office and the collection agencies, then the human resources manager will submit the write-off form (**See Section 9 Page 9**) along with all support documents to the Accounts Receivable Office to request write off because of exhaustion of all avenues. This does not mean that the debt is "**forgiven**," it just means that it will no longer be shown as an outstanding debt on the overpayment sheet. (**Note: If Attorney General's Office or collection agencies advises write-off before three years, it can be done with back-up documentation from their offices.**)

## COLLECTION AND REPAYMENT PROCEDURES

Once the Human Resources Manager has been contacted by the employee that they wish to arrange for repayment of debt, the procedures indicated below should be followed to collect the monies from the outstanding salary overpayment.

1. Each employee in an overpayment situation should be made aware that if the overpayment is not collected in the calendar year that it occurred, they will be responsible for paying back the gross amount of the overpayment to your agency. The Office of State Controller's Central Payroll Section does not allow prior year adjustments and will not issue amended W-2's for overpayments received after the last payroll deadline of the calendar year.
2. For current employees who wish to set-up a payment plan to repay their overpayment of salary, a minimum payment of **10%** of their current net disposable wages is required per General Statute 143-553. However, 10% is only a minimum and the collection of this overpayment **will be paid back the next month as it was disbursed by payroll. Example:** Employee is due longevity in April and receives payment in April and May; the **entire overpayment** will be deducted **in June**. (Net disposable wages are gross wages minus federal taxes, state taxes, social security, and retirement). In the case of financial hardship, please contact the Division/Institution Human Resources Manager. Employees currently set-up on a payment plan may continue to repay the amount previously agreed upon.
3. When the human resources manager is notified of an employee separating who owes money due to an overpayment of salary, the amount owed may be deducted from their final pay check. The human resources manager should notify the payroll office of the amount owed and request that amount be deducted using the Termination Debt Payroll Code **051**. Authorization to deduct money owed from the final pay check of an employee who is separating state government **is not required (See Section 9 Page 1)**.
4. For employees, current year salary overpayments **will always** be collected by docking the **gross amount** overpaid from their pay check. Written authorization from the employee **is required** to have his/her pay check docked. **(See Section 9 Page 2)**. Net pay will be collected from separated employees only.

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5. Employee Restitution Payroll Code **(910)** is to be used to deduct prior year salary overpayments from **current employees and employees who work in another state government agency** by way of their pay checks with **their written authorization**.

Please note for prior year salary adjustments, the gross amount overpaid must be collected. By using the Employee Restitution Payroll Code, the employee's current year-to date wages are not affected when collecting the overpayment. If an employee decides to have the overpayment deducted in this manner, they should be given a waiver to sign for refund of overpayment of social security (**See Section 9 Page 5**) and a letter (**See Section 9 Page 6**) to use as backup when **the employee files their tax returns for the year in which he/she actually made the cash repayment**. Each agency's payroll office/clerk will maintain an accounting of the amounts deducted from the employee's pay check (**See Section 9 Page 7**). (**Note:** The same form in **Section 9 Page 2** will be used for current state government employees. Proceeds collected will be forwarded to the division/institution from the employee's current place of employment. The Creditor agency is the agency that is owed the money.)

6. When the money order or personal check for repayment is received, it should be forwarded to your Accounts Receivable Office along with a copy to the GA & FM (**See Section 9 Page 8**). (**NOTE:** In order for monies to be correctly deposited, you must have your company, account and center listed, and you must know if the money is for current year or prior year. **Your account and center information** may be obtained from your Accounts Receivable Office.) If the monies collected are for a current year, and the **entire amount owed has been collected**, and your General Accounting and Financial Management Office has received the Employee Payback of Salary Overpayment and Agency Check sheet (**See Section 9 Page 8**), they will immediately write a check made payable to the Office of State Controller, Payroll Section, and forward the check to their appropriate payroll office. This check should indicate the employee's name and social security number.

## SALARY OVERPAYMENT WORKSHEET

In order for the department to maintain accurate records and audit trails, a salary overpayment worksheet must be maintained (**See Section 9 Page 10**) for each division/institution.

1. List date as the last date of the given month. (Most employees are overpaid on the monthly payroll, therefore using the last date of each month. **(Example 1)**)
2. List the employees alphabetically. (This helps **all** offices locate someone in their division/institution easier and quicker.) (**Example 2**)
3. Make an asterisk by each employee's unit number who is a current state government employee. (**Example 3**)
4. Include their correct social security number. This is the **only** information the NC Department of Revenue has to intercept someone's tax return.
5. Indicate 1st, 2nd, and final letter dates. (**Example 4**) Once the final letter date is shown, then the Assistant Payroll Officer will be able to submit that person to Set-Off Debt. (**Note:** Copies of all these letters should be submitted to the Assistant Payroll Officer for their files.)
6. If an employee sets up a payment plan, indicate amount to be paid in the payment plan column. (**Example 5**) (**Note:** If employee goes on LWOP, STD or resigns, unless he/she continues paying the division/institution directly for the same amount, he/she is **no longer** on a payment plan.) Each month, payments collected should be deducted from gross/net amount.
7. If a current or former state government employee pays the **full amount owed** (gross if prior year, net if current year), then record the date paid and in gross/net amount columns **delete monies**. (**Example 6**) After this employee shows on the salary overpayment worksheet for one (1) month with date paid, then the next month **delete them off of the report**.
8. If a current or former state government employee's debt has been determined to be written off, type the words "**write off**" in the date paid column. (**Example 7**) Once the Accounts Receivable Office notifies the division/institution that this **will be** a write off then delete off of the report the following month.